

**INTERIM TRAIL USE AND RAIL BANKING
PURCHASE SALE AGREEMENT**

THIS AGREEMENT, hereinafter called the "Agreement", made and entered into effective the ____ day of _____, 2009, by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose address is c/o CSX Real Property, Inc. J915, 301 West Bay Street, Suite 800, Jacksonville, Florida 32202-5184, hereinafter called the "Seller", and SHELBY COUNTY GOVERNMENT, whose address is 160 N. Main Street, Suite 850, Memphis, TN 38103, hereinafter called the "Buyer", provides:

RECITALS

A. Seller owns or controls certain real property located in Memphis, Shelby County, Tennessee and further described herein.

B. Seller has agreed to sell to Buyer, and Buyer has agreed to acquire from Seller, the Property upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, Seller and Buyer agree as follows:

1. PURCHASE AND SALE:

Upon the terms and conditions set forth herein, Buyer hereby agrees to purchase from Seller and Seller agrees to sell to Buyer, all of the rights which Seller is authorized to sell and Buyer is authorized to buy, under the provisions of 16 U.S.C. 1247(d), for interim trail use and rail banking, in and to Seller's Cordova Branch rail line between MP ONI 224 (VS 11812+37) to MP ONI 216.92 (VS 11439+97) located between central Memphis and Shelby Farms, in Memphis, Shelby County, Tennessee, as set forth in the Quitclaim Deed, a copy of which is attached hereto as Exhibit "A" and made a part hereof, (hereinafter called the "Property"). Buyer acknowledges and agrees that the Property shall be used for the sole purpose of the construction, maintenance, enhancement, operation, and use of a recreational trail (hereinafter referred to as "Trail").

2. PRICE:

The purchase price for the Property is FIVE MILLION AND NO 00/100 U.S. DOLLARS (\$5,000,000.00), (hereinafter the "Purchase Price"). Seller agrees to credit Buyer \$500,000 of the Purchase Price at Closing to offset Buyer's costs to repair bridges within and on the Property.

3. OFFER, ACCEPTANCE, CONTRACT:

3.1 Buyer's offer to purchase the Property (hereinafter the "Offer") shall be evidenced by Buyer's execution and delivery of this Agreement to Seller. Seller's acceptance of the Offer

is to be evidenced by its execution of this Agreement and its delivery thereof to the Buyer. Failure of Seller to accept the Buyer's Offer and execute and deliver this Agreement shall render the Offer null and void. Buyer retains the right to withdraw the Offer anytime prior to Seller's execution and delivery of this Agreement to Buyer.

3.2 This Agreement, when accepted by Seller, shall constitute a contract and the entire agreement between the parties hereto, and they shall not be bound by any terms or conditions, oral or written, or by any statements or representations, oral or written, not contained herein, (including Exhibits referred to herein and attached hereto).

3.3 Neither the Buyer's Offer nor, upon its execution by all parties, this Agreement may be changed, altered or modified except by an instrument in writing signed by Buyer and Seller.

3.4 The Buyer's Offer and this Agreement shall be executed in duplicate, each of which may be treated as an original.

4. CONTINGENCIES:

4.1 This Agreement is contingent upon the delivery by Buyer to Seller of written notice on or before [insert date], "(Contingency Date)", or the STB Deadline ("STB Deadline") referred to in Section 4.2, below, whichever date is later, stating that Buyer is satisfied, in Buyer's sole discretion, that the following contingencies have been met:

- (1) Seller having delivered to Buyer evidence that Seller has obtained authority from the Surface Transportation Board (STB) to abandon railroad operations over the Property and that Seller having removed its track and other track materials described in Section 5.3(B) hereof.
- (2) Seller having delivered to Buyer an Environmental Assessment of the Property, an approved Soil Management Plan and Capping Plan in conformance with Exhibit B, attached hereto and made a part hereof.
- (3) Buyer having received FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000.00) funding from Shelby Farms Park Conservancy; Buyer has received official Notice to Proceed from Tennessee Department of Transportation for Surface Transportation Program funds; Buyer having identified and selected an entity satisfactory to Buyer to operate and maintain Trail; Buyer having received all necessary approvals from local, state and federal officials in regard to environmental matters, including approval from Tennessee Department of Environment and Conservation that the proposed trail design, when implemented, will mitigate any potential environmental hazards; and Buyer having received all necessary approvals from the Board of County Commissioners of Shelby County, Tennessee.
- (4) Buyer having completed such inspections of the Property as Buyer deems

reasonable and necessary, including by way of example and not by way of limitation examination of (i) soil and environmental conditions; (ii) availability of all utilities including water, sewer, gas and electric facilities subject to the limitations set forth in Section 3 of the Memorandum of Understanding executed between Seller and Buyer dated August 29, 2008; (iii) title to the Property and any restrictions, encumbrances or other title matters; (iv) the feasibility and cost of development, construction, and operation of the Buyer's proposed development on the Property including, without limitation, governmental approvals, Seller approvals (as set forth below), site plan approvals, building permit matters, impact fees, zoning, utility tap/connection fees, taxes, assessments, and other fees and assessments applicable to the Property; and (v) the general condition of the Property and its suitability for Buyer's proposed use as a recreational trail. Notwithstanding the foregoing, Buyer shall not undertake any inspection of the Property without notice to, acceptance of and execution of a Right of Entry with Seller for the proposed review as provided in Section 12 herein. Buyer reserves the right to terminate this Agreement should Seller elect not to approve the proposed inspection..

- (5) Buyer has concluded, in its sole discretion that it chooses to go forward with the closing of the purchase.

4.2 By STB Decision and Notice of Interim Trail Use or Abandonment served October 26, 2007, in STB Docket No. AB 55 (Sub.-No. 684X), as modified at the parties' request on April 30, 2008, on December 2, 2008, and on February 13, 2009, Seller has been authorized to negotiate an interim trail use/rail banking agreement ("NITU") with Buyer for the Property pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), which authority expires on March 31, 2009. Buyer and Seller may request an extension of the STB Deadline by the STB to allow completion of the sale. March 31, 2009, plus any extension requested by the parties and granted by the STB, shall be referred to as the "STB Deadline."

4.3 If for any reason Buyer chooses not to give to Seller the written notice referred to above, on or before the Contingency Date and the STB Deadline, this Agreement shall terminate and Buyer and Seller shall each be relieved of all liability hereunder, any funds transferred to Seller shall be returned to Buyer, and Buyer shall furnish Seller with copies of all engineering reports, studies, maps, site characterizations and/or zoning related materials developed by Buyer during the term of this Agreement relating to the potential use or the physical condition of the Premises. Buyer agrees to repair any damage to the Property caused by its entry thereon pursuant to this paragraph.

5. DEED:

At Closing, Seller shall execute and deliver to Buyer the Quitclaim Deed, a copy of which is attached hereto as Exhibit A.

6. TITLE SEARCH; INSURANCE:

6.1 Buyer has the option of arranging and paying for such examination of title or title insurance on the Property as Buyer may desire, at Buyer's sole cost.

6.2 As information, Seller's source of title to the Property is believed to be as shown on attached Exhibit C.

This information is provided solely to assist Buyer in reviewing title to the Property and is not intended to and shall not be relied upon by Buyer.

7. CLOSING:

Closing hereunder shall be held in Memphis on or before June 1, 2009 at such time and place as Seller and Buyer shall mutually agree. If Buyer and Seller do not agree upon a time and place for Closing, Seller shall designate the time and place for Closing, which shall take place in Memphis. The time and date for Closing may be extended only by Seller in writing, time expressly being of the essence in this Agreement.

8. POSSESSION:

8.1 Prior to Closing, Seller will research its archives for, and shall promptly advise Buyer in writing if Seller discovers any additional leases, licenses, easements, occupancies and limitations affecting the Property, other than those identified on Exhibit D. As to items discovered as a consequence of such research, Seller may elect, in its sole discretion, either to cancel or terminate such items or to offer to Buyer to assign such items to Buyer.

8.2 Buyer shall obtain possession of the Property at Closing, subject to the limitations, terms and conditions of this Agreement, the Quitclaim Deed, and such other leases, licenses, easements, occupancies and limitations which are identified on Exhibit D, or which are discovered by Seller after the execution of this Agreement and are identified by Seller to Buyer in writing, (as set forth in Section 8.1), at least [insert number of days] days before Closing, and which are not, prior to Closing, canceled or terminated by Seller, (whether by notice, expiration, nonrenewal or any other reason), or which are not assigned by Seller to Buyer, with Buyer's acceptance and consent., prior to Closing. Seller shall retain those leases, licenses, or occupancies which are identified on Exhibit E, subject to any amendment of Exhibit E which may be agreed to by the parties on or before the date referred to immediately above in this Section 8.2, together with monies due and payable thereunder.

8.3 If, prior to Closing, all or any portion of the Property is taken by eminent domain (or is the subject of a pending taking which has not yet been consummated), Seller shall notify Buyer of such fact promptly after obtaining knowledge thereof, and either Buyer or Seller shall have the right to terminate this Agreement by giving notice to the other not later than ten (10) days after the giving of Seller's notice. If neither Seller nor Buyer elects to terminate this Agreement as aforesaid, there shall be no abatement of the Purchase Price and Seller shall assign to Buyer (without recourse) at the Closing the rights of Seller to the awards, if any, for the

taking, and Buyer shall be entitled to receive and keep all awards for the taking of the Premises or such portion thereof.

9. ANNUAL TAXES; RENTS; LIENS; CHARGES:

9.1 Seller shall remain responsible for any tax liability arising out of its ownership of the Property after the Closing.

9.2 Any certified governmental assessments or liens for improvements on the Property which are due and payable at the time of Closing shall be paid in full by Seller. Seller agrees to disclose any pending liens and/or assessments for improvements not yet due and payable prior to Closing. Any pending liens or assessments for improvements not yet due and payable at Closing shall be thereafter paid in full by Buyer.

9.3 Any rents and license fees (individually in excess of \$500.00 prorated amount on annual rental) accruing to the Property shall be prorated at Closing, with rents and fees prior to the date of Closing retained by Seller.

10. TAXES ON TRANSFER; CLOSING COSTS:

10.1 Buyer shall pay all transfer taxes, however styled or designated; all documentary stamps, recording costs or fees or any similar expense in connection with this Agreement, the conveyance of the Property or necessary to record the deed.

10.2 If any state or local governmental authority requires, presently or in the future, the payment of any sales, use or similar tax upon the sale, acquisition, use or disposition of any portion of the Property, (whether under statute, regulation or rule), Buyer assumes all responsibility for and shall pay the same, directly to said authority, and shall hold Seller harmless from such tax(es) and any interest or penalty thereon. Seller shall cooperate (at no expense to Seller) with Buyer in the prosecution of any claim for refund, rebate or abatement of said tax(es).

10.3 The conveyance of the Property shall be subject to no mortgage. In the event Buyer finances any portion of the Purchase Price (whether through third parties or from Seller), Buyer shall pay all costs thereof, including recordation, intangible taxes, etc.

10.4. Buyer shall be solely responsible for and shall pay any reassessments or taxes generated by reclassification of the Property resulting from conveyance of the Property. Buyer is exempt.

11 BUYER'S RIGHT OF ENTRY; ENVIRONMENTAL AND OTHER INSPECTIONS:

11.1 Buyer acknowledges that the ultimate use of the Property shall be for public recreation and open space conservation. Buyer further acknowledges that: a) the historical use of the Property was for railroad and industrial operations and that the Property is being conveyed as industrial use Property; b) non-industrial use of the Property may require the implementation

of remedial or corrective actions to ensure the protection of human health or the environment; and c) Buyer plans to develop the Property for use as a recreational trail (the "Intended Use") and d) any clean up associated with the development is limited to the purposes of recreational trail use. Buyer further acknowledges that Buyer is in the process of obtaining an environmental assessment on the Property at its expense to ensure that its Intended Use poses no threat to human health or the environment. The assessment is being conducted through a separate Right of Agreement entered into by the Buyer's agent with the Seller. Buyer shall perform any and all assessment, remediation, and/or monitoring on the Premises necessary for Buyer's Intended Use of the Property. Buyer shall coordinate its environmental investigation of the Premises with Seller's environmental representative, Raghu Chatrathi @ 904-633-4858.

11.2 Buyer acknowledges that Seller makes no guarantee, representation or warranty regarding the physical or environmental condition of the Property, and Seller expressly disclaims any and all obligations and liabilities to Buyer regarding any defects which may exist with respect to the condition of the Property.

11.3 Buyer shall be responsible for the remediation of the physical and environmental condition of the Property to a standard suitable for trail use as required by the environmental site assessment required by Section 4 of this Agreement. Subject to all applicable laws, Buyer covenants not to sue Seller, and releases all rights or claims against Seller, arising from or relating to any physical or environmental condition or for any costs of investigation or remediation or cure of any physical or environmental condition of the Premises.

11.4 Subject to all applicable laws, Buyer shall indemnify, defend and hold harmless Seller, its present and future officers, directors, employees and successors, from and against any and all liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits, and costs and expenses incidental thereto (including cost of defense, settlement and reasonable attorneys' fees) which any or all of them may hereafter suffer, incur, be responsible for or pay out as a result of injury to any person or damage to any Property (public or private), contamination of or adverse effects on the environment, or any violation or alleged violation of the deed restrictions or restrictive covenants provided for in statutes, ordinances, orders, rules or regulations of any governmental entity, department or agency, caused by or arising out of environmental conditions resulting from Buyer's development and operation of the Trail on the Property or which arises out of any failure by the Buyer to observe and adhere to all terms, conditions, and covenants of this Agreement.

Seller acknowledges that Shelby County Government, being a political subdivision of the State of Tennessee, is governed by the provisions of the Tennessee Governmental Tort Liability Act, Tennessee Code Annotated, sections 29-20-101 *et seq.*, for causes sounding in tort.

11.5 At or before Closing, Buyer shall provide Seller a reliance letter from Buyer's consultant, in form and substance reasonably acceptable to Seller, granting Seller the right to rely on the environmental data and reports generated as part of buyer's environmental due diligence, including without limitation, any Phase I and Phase II Environmental Site Assessment Reports. The reliance letter shall not impose any additional limitations or restrictions on Seller's reliance on said data and reports except as may be specified within the report documents themselves.

11.6 If environmental contamination of the Property is revealed by the studies and tests conducted by Buyer pursuant to this Section, in an amount and/or concentration beyond the minimum acceptable levels established by current applicable governmental authorities, or, if Buyer is unwilling to accept the environmental condition of the Property as a result of such tests or assessments, Seller's and Buyer's sole and exclusive remedy shall be to terminate this Agreement. Under no circumstances shall Seller be required to correct, remedy or cure any condition or environmental contamination of the Property, which Buyer's tests and studies may reveal, as a condition to Closing or other performance hereunder.

11.7 Based on the results of the environmental site assessment as required by Section 4 of this Agreement, Buyer agrees to remediate both the environmental and physical condition of the Property to a standard suitable for trail use.

11.8 The provisions of this Section 11 shall survive Closing or termination of this Agreement.

12. SUBDIVISION APPROVAL; ZONING:

12.1 Any subdivision approval needed to complete the transaction herein contemplated shall be obtained by Buyer at Buyer's sole risk, cost, and expense. Seller shall cooperate with Buyer in obtaining said approval, to the extent necessary or required, but Buyer shall reimburse Seller for any and all charges, costs and expenses (including portions of salaries of employees of Seller assigned to such project) which Seller may incur in such cooperation.

12.2 Seller makes no guarantee or warranty that any subdivision approval will be granted and assumes no obligation or liability for any costs or expenses if same is not approved.

12.3 Costs and expenses shall include all fees, costs and expenses, including reasonable attorneys' fees, of obtaining subdivision plats, or filing same with the applicable governmental body(ies), or recordation thereof, including attorneys' fees, and all other related and/or associated items.

12.4 Seller makes no guarantee, warranty or representation as to the permissibility of any use(s) contemplated by Buyer under existing zoning of the Property or as to any ability to secure any rezoning for Buyer's use.

13. BROKER'S FEES:

The Buyer and the Seller each represent and warrant to the other that neither has introduced into this transaction any person, firm or corporation who is entitled to compensation for services as a broker, agent or finder. Subject to all applicable laws, the Buyer and the Seller each agree to indemnify the other against and hold the other harmless from any and all commissions, finder's fees, costs, expenses and other charges claimed by real estate brokers or sales persons by, through or under the indemnifying party. Each Party is responsible for any fee and/or cost associated with the Closing.

14. ASSIGNMENT; LIMITS; SURVIVAL:

14.1 (a) This Agreement may not be assigned by Buyer without the prior written consent of Seller, which shall not be unreasonably withheld, provided that if Buyer wishes to cause the Property to be conveyed directly from Seller to a third party through an exchange of like-kind real estate on escrow terms qualifying under Section 1031 of the Internal Revenue Code of 1986, as amended, and any Treasury Regulations promulgated thereunder, Seller shall, at Buyer's expense, cooperate in accomplishing Buyer's objective.

(b) Buyer hereby agrees that closing on the disposition of the transfer of the Property pursuant to this Agreement may be structured by Seller to qualify as part of an exchange of like-kind Property under Section 1031 of the Internal Revenue Code of 1986, as amended, and Treasury Regulations promulgated thereunder (a "like-kind exchange"). Accordingly, Seller shall have the right to assign its rights and interests hereunder to a qualified intermediary or qualified escrow agent, an exchange accommodation titleholder, or such other person as may be necessary to qualify the transaction as a like-kind exchange. Buyer agrees to cooperate with Seller in executing such documents as may be reasonable necessary to implement a like-kind exchange, including, but not limited to, making the proceeds check payable as directed by Seller.

14.2 As limited above, this Agreement shall be binding upon the parties, their successors and permitted assigns, or upon their heirs, legal representatives and permitted assigns, as the case may be.

14.3 Any provision calling for obligations continuing after Closing or termination of this Agreement shall survive delivery of the deed and not be deemed merged into or replaced by any deed, whether or not the deed so states.

15. DEFAULT:

15.1 In the event of a default by Buyer under this Agreement, Seller shall, in writing, give Buyer notice of the default and allow Buyer a reasonable time to cure not to exceed thirty (30) days. If Buyer does not timely cure the default, Seller may elect to terminate this Agreement by delivery of notice to Buyer.

15.2 In the event of a default by Seller under this Agreement, Buyer shall, in writing, give Seller notice of the default and allow Seller a reasonable time to cure not to exceed thirty (30) days. If Seller does not timely cure the default, Buyer may elect to terminate this Agreement by delivery of notice to Seller.

15.3 Upon the termination of this Agreement pursuant to this Article 15, Buyer and Seller shall be relieved of all obligations under Agreement, including the duty to close, other than (a) any liability for breach of any of the provisions of Section [11?] shall remain as obligations of Buyer and (b) Buyer shall furnish Seller with a copy of all materials and information (including but not limited to any engineering reports, studies, maps, site

characterizations and/or zoning related materials) developed by Buyer during the term of this Agreement relating to the potential use or the physical condition of the Premises.

15.4 "Default" shall include not only the failure to make prompt payment of any sums when due under this Agreement, but also the failure to fully and timely perform any other acts required of Buyer or Seller under this Agreement.

16. NOTICES:

16.1 Notice under this Agreement shall be in writing and sent by Registered or Certified Mail, Return Receipt Requested, or by courier, express or overnight delivery, or by confirmed e-mail or facsimile.

16.2 The date such notice shall be deemed to have been given shall be the business day of receipt if received during business hours, the first business day after the business day of receipt if received after business hours on the preceding business day, the first business day after the date sent by courier, express or overnight ("next day delivery") service, or the third business day after the date of the postmark on the envelope if mailed, whichever occurs first.

16.3 Notices to Seller shall be sent to:

CSX Transportation, Inc.
c/o CSX Real Property, Inc. - J915
301 West Bay Street, Suite 800
Jacksonville, FL 32202-5184
Attn: Amy Vaughn (Transaction Specialist)
Fax: 904-633-4572
E-mail: Amy_Vaughn@csx.com

Notices to Buyer shall be sent to:

Brian Kuhn, County Attorney
160 N. Main Street, Suite 660
Memphis, Tennessee 38103
901-545-4320
brian.kuhn@shelbycountyttn.gov

16.4 Any party hereto may change its address or designate different or other persons or entities to receive copies by notifying the other party in a manner described in this Section.

17. RULES OF CONSTRUCTION:

17.1 In this Agreement, all singular words shall connote the plural number as well as the singular and vice versa, and the masculine shall include the feminine and the neuter.

17.2 All references herein to particular articles, sections, subsections or clauses are references to articles, sections, subsections or clauses of this Agreement.

17.3 The headings contained herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

17.4 Each party hereto and its counsel have had the opportunity to review and revise (or request revisions of) this Agreement, and therefore any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement or any exhibits hereto or amendments hereof.

18. TRAIL USE:

18.1 Buyer agrees that upon acceptance of the Quit Claim Deed conveying the Property to Buyer pursuant to the STB's aforementioned order, Buyer or its designee or assignee shall assume full responsibility for management and maintenance, including vegetation and animal control, of the Property. To the extent allowed by law, Buyer shall assume full responsibility for and will indemnify Seller against any potential legal liability arising out of transfer or use of the Property pursuant to this Agreement. Seller acknowledges that Shelby County Government, being a political subdivision of the State of Tennessee, is governed by the provisions of the Tennessee Governmental Tort Liability Act, Tennessee Code Annotated, sections 29-20-101 *et seq.*, for causes sounding in tort. The provisions of this paragraph shall survive the Closing or termination of this Agreement.

18.2 Buyer acknowledges that the Property remains subject to the jurisdiction of the STB, whose powers include without limitation the power to reactivate rail service (including freight or passenger service), the power to impose alternative public use conditions, and the power to declare the Property abandoned. As an inducement to Buyer to enter into this Agreement and in the event action is taken to reactivate rail service on the Property, to impose alternative public use conditions, or to abandon the Property, Seller agrees to compensate Buyer, or assist Buyer as follows:

A.) In the event the STB, or any other entity of the United States Government compels Seller, its successors or assigns, to reactivate rail service on the Property, to impose an alternative public use condition on the Property, or to abandon the Property, or in the event Seller, its successors or assigns, voluntarily takes any such actions by seeking to vacate the Notice of Interim Trail Use with respect to the Property (the "NITU"), and if the STB approves the vacation of the NITU requiring conveyance of the Property, in whole or in part, by the Buyer as Interim Trail Manager to the Seller, then, in such event, Seller, its successors or assigns, shall pay to the Buyer a sum equivalent to the Purchase Price as adjusted by the same percentage of increase reflected in the "Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (1982-84=100) specified for All Items - United States compiled by the Bureau of Labor Statistics of the United States Department of Labor" ("CPI"). The amount to be paid by Seller to the Buyer shall be calculated in accordance with the following:

$(\text{Current Price Index}^*/\text{Base Price Index}^{**}) \times \text{Purchase Price} = \text{Amount paid to Buyer}$

* Effective average annual CPI for the most recent year ending prior to reactivation.

** Effective average annual CPI for the year of Closing.

In the event the CPI is converted to a different standard reference base or otherwise revised or changed, the calculation of the adjustment shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then as reasonably determined by Seller and the Buyer.

For any partial reconveyance of the Property, the amount paid by Seller to the Buyer, as calculated above, shall be pro-rated according to acreage reconveyed; provided, however, that if the partial reconveyance divides the Trail into two or more non-contiguous segments, the Buyer may elect to reconvey the entire Property for the compensation provided by this Section.

In addition to reimbursement for the purchase price, as calculated above, the Seller shall pay to the Buyer the cost of capital improvements made to the Property between the date of Closing and the date of notice from Seller to Buyer that a request for reactivation of rail service, alternative public use condition, or abandonment has been filed with the STB or other government agency. The cost of such capital improvements shall be based upon a 10 year depreciated value. If the Buyer is the party responsible for requesting reactivation of rail service, an alternative public use condition or abandonment, or if more than 10 years have passed from the sale of the Property to Buyer, no compensation shall be paid. Seller's total liability for compensation of capital improvement costs shall not exceed \$_____.

In the event that reimbursement is required by Seller as set out herein, Buyer shall reconvey the Property together with all improvements located thereon to Seller.

B.) In the event a party other than Seller, its successors or assigns, requests approval from the STB to reactivate rail service on the Property, to impose an alternative public use condition on the Property, or to abandon the Property, Seller shall not support, cooperate with, or agree to the third party request unless and until it has received written notice from the Buyer as Interim Trail Manager stating the Buyer's support for the third party request, and that the Buyer has reached a satisfactory agreement with such third party providing compensation to Buyer for the purchase price and the capital improvements, using the calculations set forth in 18.2.A herein.

19. PUBLIC RECORDS: Seller acknowledges that Buyer is a governmental entity that is subject to the Public Records Act as codified in Title 10 Chapter 7 of Tennessee Code Annotated.

20. AMENDMENT: This Agreement may be modified or amended only by written instrument signed by both parties. No provision of this Agreement may be waived except by a waiver in writing signed by the party against which the waiver is asserted.

21. TIME OF ESSENCE: Time shall be considered of the essence both to the Buyer and the Seller for all activities undertaken or required pursuant to this Agreement.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized representatives on the date and year above written.

APPROVED AS TO FORM
AND LEGALITY

SHELBY COUNTY GOVERNMENT

Contract Administrator/
Assistant County Attorney

A C Wharton, Jr.
Mayor

CSX TRANSPORTATION, INC.

BY: _____

TITLE: _____

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public, in and for the State and County aforesaid, personally appeared _____, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be president or other officer authorized to execute the preceding instrument of CSX Transportation, Inc. the within named bargainor, a corporation, and that he as such _____, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself/herself as _____.

WITNESS my hand and official seal at office this _____ day of _____, 2009.

Notary Public

My Commission Expires: _____